

Chapter-V : Human Resources

5.1 Introduction

The mandate of FSSAI, which includes framing of regulations in respect of food standards, upgrading the existing public food laboratories and creating new ones, ensuring effective enforcement of the food safety and standards and training of all the stakeholders, requires diverse skill sets and knowledge to discharge its functions. The Act extends to the whole of India, requiring co-ordination with the state authorities for enforcement of the Act. This can only be achieved through optimal human resource management, which, *inter-alia*, requires judicious deployment of human resources possessing requisite technical, scientific and administrative skills.

Section 9(2) of the Act stipulates that the Food Authority may, with the approval of the Central Government, determine the number, nature and categories of officers and employees required for its functioning. As per section 9(3) of the Act the salaries, allowances and other conditions of service of CEO, officers and employees of FSSAI shall be such as may be specified by Regulations by the Food Authority with the approval of the Central Government.

5.2 Chronic shortage of regular manpower leading to excessive reliance on contractual employees

The Ministry had sanctioned 356 posts for FSSAI at various levels. However, since FSSAI failed to finalise its recruitment regulations (RR), most of these posts remained unfilled in all categories¹ by regular employees. The number of regular staff in FSSAI was 115 while it had appointed 261 contractual staff as of December 2016. These contractual employees manned nine *per cent* of Group A posts, 88 *per cent* of Group B posts, and 89 *per cent* of Group C sanctioned posts of the FSSAI. Overall, 73 *per cent* of the personnel employed in FSSAI were on contract (**Annexure-5.1**).

In their reply (May 2017), FSSAI stated that against 356 sanctioned posts, 327 persons were in position, and as such there was no shortage of staff in FSSAI.

¹ For instance, as of December 2016, out of 12 sanctioned senior level posts, only eight (including CEO) were filled (33 *per cent* vacancy); out of 30 posts in the scientific services category only three were filled (90 *per cent* vacancy); out of 74 posts in the technical services, only 24 were filled (68 *per cent* vacancy); and out of 87 posts in laboratories, only 24 were filled (72 *per cent* vacancy).

The reply is not acceptable since most of the regular posts remained unfilled. In the Group A cadre alone, 72 posts (52 *per cent*) remained vacant.

5.3 Failure to notify recruitment regulations even after a decade

The FSSAI (Salary, allowances and other conditions of service of Officers and Employees) Regulations, 2013 and Draft FSSAI (Recruitment and Appointment) Regulations were sent by FSSAI to the Ministry in 2012. The FSSAI (Salary, allowances and other conditions of service of Officers and Employees) Regulations, 2013 got notified on 24 July 2013. However, the FSSAI (Recruitment and Appointment) Regulations are still under finalisation and the draft FSSAI (Recruitment and Appointment) Regulations were circulated for public comments on March 2016 and were yet to be finalised as of May 2017.

Accepting the facts, the Ministry stated (June 2017) that the finalisation of RRs has been unduly delayed. It further intimated that the draft recruitment regulations have been recast and new recruitment regulations have now been approved by the Food Authority.

The fact remains that even after a decade of enactment of the Act the Food Authority has not notified its recruitment regulations.

5.4 Unauthorised appointments on contractual basis

FSSAI had on its rolls (as of December 2016), 261 contractual employees in the technical, scientific, administrative and general categories. Audit observed that these contractual employees were performing routine functions, defeating the intention of appointing contractual employees only for specific tasks of defined duration. Of these, 51 contractual employees were appointed in 2016 alone. Further, 61 contractual employees have been working in FSSAI for more than five years (as of December 2016)². Audit also observed that the FSSAI had not, prior to their engagement, identified the specific work, expected output and timeframe for completion of the work. The deficiencies noticed during audit scrutiny are discussed in the succeeding paragraphs.

FSSAI admitted (May 2017) that the contractual staff had been engaged for even more than five years and they (other than experts on part-time basis) have been working like regular staff and not in any time-bound specific activity. This supports the Audit observation.

² Contrary to clause 17 of the draft recruitment regulations which stipulates that contractual appointments are to be limited to a maximum period of three years.

The Ministry (June 2017) stated that considering that FSSAI is not a typical government department, but is a professional body with specialised nature of work, some recruitments have been made on contractual basis which are provided for in the Regulations. However, the fact remains that majority of staff was on contractual basis.

In the exit conference (June 2017), FSSAI stated that an internal committee had been set up to review all contractual appointments including their remuneration, increments and tenure.

5.4.1 Deficiencies in appointment of technical officers

Against 17 vacancies in the cadre of technical officers (TOs), 93 appointed on contractual basis were on roll as of December 2016. Such appointments were in excess of sanctioned strength of TO cadre approved by the Ministry.

FSSAI (May 2017) stated that TOs fall in the Group B cadre, and against 111 sanctioned post in Group B, there are 115 persons, while there is a shortage of 64 persons in Group A. Since FSSAI could not attract people in senior and middle levels, many posts are being operated at lower levels. This has resulted in significant savings for the Food Authority without compromising on the work. The Ministry, in its reply (June 2017) endorsed the FSSAI's reply.

The reply is not tenable since categories of posts under each Group are specifically sanctioned by the Ministry and cannot be used inter-changeably.

5.5 Scheme for engagement of consultants (other than IT professionals)

5.5.1 Deficiencies in the scheme

The Scheme for engagement of consultants (other than IT professionals), formulated in December 2014, suffered from various defects as follows: (a) the regulations of the FSSAI do not include the category of consultants and hence creation of this category by the FSSAI was unauthorised; (b) the scheme was approved at the level of the Chairperson FSSAI and was not referred to Food Authority/Ministry, as was done subsequently in the case of scheme for engagement of IT professionals; (c) while the general conditions for engaging consultants (contained in clause 1 of the scheme) specifically state that the consultants would invariably be appointed on full-time basis, clause 5.2 of the scheme provides for remuneration for part-time engagement also; these clauses therefore appear to be contradictory; (d) under the scheme, part-time consultants who were required to work for only two weeks in a month were paid two-thirds to three-fourths the remuneration received by full-time consultants who were

required to work all four weeks in a month; further, while the full-time consultants received no transport facility, part-time consultants were entitled to return airfare. The justification for this is not on record. Audit also observed that the FSSAI did not advertise the scheme, and appointments were made from the applications received from retired government servants and others. The scheme therefore violated the principles of equity, competition and transparency.

Ministry endorsed (June 2017) the reply of FSSAI (May 2017) that, in view of deficiencies, the scheme was not in operation now. Seven retired persons were engaged on full-time basis and one on part-time basis under that scheme, while it was in operation. The reply is not acceptable as there is no evidence on the winding-up of the scheme, and some of the retired persons engaged under this scheme are continuing in FSSAI under the same conditions of the scheme. The part-time employee appointed under the scheme has now been transferred to a new scheme³ created by FSSAI in 2016.

5.5.2 Deficiencies in the appointment of full-time contractual staff

Under the above scheme, FSSAI engaged three full-time consultants in March 2015. Audit observed that though, in terms of the scheme, such engagements are temporary, to be extended on case to case basis depending on the specific job and the time frame for their completion, these consultants were engaged on routine or general tasks without specific time frames for completion, and their tenure was periodically renewed. For instance, two of the consultants were engaged in March 2015 for the specific purpose of development of standards and to be members of the Product Approval and Screening Committee (PA&SC). The two consultants were not engaged in the task of the PA&SC, and in any case, the mechanism of product approval was wound up in August 2015 after the Supreme Court orders. The only record of the work performed by these consultants is with reference to the co-ordination of scientific panels, but this work is general and routine in nature and cannot be classified as a specific task in terms of the scheme for appointment of consultants. Despite this, the tenures of these consultants have been periodically extended and they continue to be engaged by the FSSAI. Similarly, another consultant who was engaged in March 2015 has been assigned the routine tasks of establishment and vigilance, which is contrary to the scheme guidelines, and he continues in that position with periodic extensions.

³ Scheme for empanelment of expert resources, professionals and individual consultants (short term).

The Ministry endorsed (June 2017) the reply of FSSAI (May 2017) that the consultants were discharging specialised tasks and not those of general and routine nature. The replies cannot be accepted. The task of coordinating with Scientific Panel and task of establishment and vigilance cannot be called a specialised task.

5.6 Deficiencies in appointment of full time consultant outside the scheme

A retired Joint Secretary to the Government of India was appointed by FSSAI on single source basis, on the grounds of urgency and temporary arrangement in January 2016. FSSAI invoked GFR 176 for the appointment, which permits single-source selection for which full justification should be recorded on file and approved by the competent authority. The person was appointed against the vacant post of Chief Management Services Officer (CMSO). When a regular officer joined the post of CMSO in April 2016, the services of the consultant were not terminated even though the original condition of urgency necessitating temporary filling up of the post no longer existed. Instead, he was appointed as Head of the General Administration Division, a post which was carved out of the existing post of CMSO, for which, no sanction of the Ministry was available.

The replies of the Ministry/FSSAI were not specific to the audit observations.

5.7 Irregular grant of higher grade to a category of contractual employees

In terms of sanction orders (September 2010) of the Ministry, Assistants and Accounts Assistants/Administration cum Accounts Assistants in the FSSAI are only entitled to grade pay of ₹ 4,200. However, without the approval of the Food Authority/Ministry, the CEO, FSSAI approved (March 2015) fixation of remuneration payable to contractual employees based on the grade pay of ₹ 4,600 against the post of Assistants and Accounts Assistants/Administration cum Accounts Assistants.

FSSAI (May 2017) accepted the facts and stated that the rationale for this has not been found on records so far. In case, there is no good reason, this would be reverted to ₹ 4,200.

5.8 Irregular payment to specific consultants at rates higher than those prescribed by FSSAI

Between April and June 2016, the FSSAI appointed nine contractual employees (whom they designated as consultants) in three disciplines, viz., (i) skill training and capacity building (three consultants); (ii) legislative drafting, legal and

regulatory affairs (four consultants); and (iii) IT and data analytics (two consultants). The appointments were made by adopting NITI Aayog's scheme (July 2015) under the young professional programme. Audit noticed the following deficiencies:

(a) The NITI Aayog's scheme was not a general scheme and had no provision for adoption by any other government body.

(b) Though NITI Aayog guidelines specified remuneration in the range of ₹ 40,000 to ₹ 70,000, FSSAI's notice inviting applications (February 2016) stated that the upper limit for remuneration would be suitably revised depending on years of relevant experience. Reasons for deviation were not found available on records.

(c) The job description specified that the requirement was to identify gaps in skill and capacity of available manpower oriented to the requirements of FSSAI, and to develop training and capacity building modules. Therefore, an essential pre-requisite for eligibility for skill and capacity building in FSSAI is experience in the food business. However, FSSAI specified the qualifications of Master's degree in any discipline, preferably English, and relevant experience in schools/skill development with no preference being given to experience in food business.

(d) There is no record of the manner in which the selection committee based its ranking of candidates and assignment of different remuneration packages. To elaborate, while the selection committee recommended five candidates for appointment and ranked them in the order of merit, the committee recommended remuneration of ₹ 70,000, ₹ 50,000, ₹ 75,000, ₹ 90,000, and ₹ 50,000 in the same order. Thus, the candidates ranked lower in merit were considered for higher remuneration than higher ranked candidates.

(e) Further, the candidate ranked fourth in the order of merit was not only recommended more remuneration than all the higher ranked candidates without any justification, the candidate was eventually paid a higher monthly remuneration of ₹ 1.10 lakh on the ground that she had 20 years of experience. Audit noted however, that the candidate had teaching and training experience (required for the job) of less than six years.

The Ministry endorsed (May 2017) the reply of FSSAI (June 2017) that this category of consultants should be equated to Information Technology (IT)

consultants who receive consolidated remuneration based on market rates and in each case, the amount was based on salary in previous employment plus 15 *per cent* increase. The replies cannot be accepted, since they do not address the issue of how candidates ranked lower in the order of merit can be recommended and paid remuneration higher than higher ranked candidates. Further, the professional requirements of the IT field cannot be equated to the skills related to tasks like skill training and capacity building, and legislative drafting, legal and regulatory affairs.

5.9 Shortfall of Designated Officers (DOs) and Food Safety Officers (FSOs) in States

In terms of section 36 of the Act, Designated Officers (DOs) under FSSAI and State food authorities are, *inter-alia*, empowered to issue or cancel licenses of Food Business Operators (FBOs), to prohibit sale of food, to get analysed the food samples received from Food Safety Officers (FSOs), and to recommend sanction of prosecution under the Act. In terms of section 38 of the Act, FSOs are, *inter-alia*, empowered to lift food samples and have them inspected, to investigate complaints, and to maintain data bases of all FBOs within their areas.

Following the recommendation (August 2014) of the Central Advisory Committee requiring one DO for every district and one FSO for each block in rural areas and for every thousand FBOs in urban areas, FSSAI conducted a gap analysis (September 2016), and found shortfalls of DOs ranging from 5 to 80 *per cent* in 12 States; against requirement of 17,003 only 2,952 FSOs were available in all the states, with shortfalls ranging from 33 to 99 *per cent* in all the States, and with shortfall of more than 90 *per cent* in 12 States. Audit observed shortfalls of DOs ranging from 7 to 81 *per cent* in six states (Assam, Delhi, Haryana, Himachal Pradesh, Odisha and Uttar Pradesh), and shortfalls of FSOs ranging from 34 to 98 *per cent* in the test checked States. Such shortages severely affected the functioning of the State food safety authorities as discussed in paragraphs 3.2 and 3.3.1 of this report.

FSSAI/Ministry in its reply (May/June 2017) accepted the audit observations and stated that corrective measures are being taken.


Conclusion:

Failure of the Ministry/FSSAI to notify the recruitment regulations, even after more than a decade, resulted in acute shortages of regular staff at various levels (by as much as 33 *per cent* to 90 *per cent* in critical posts). There were irregularities in appointment of contractual staff and acute shortage of Designated Officers and Food Safety Officers in state food safety authorities.

Recommendation:

- *The Ministry/FSSAI may take steps to expeditiously notify the recruitment regulations and fill up vacancies.*
- *The Ministry may also comprehensively review the engagement of all the contractual employees appointed by FSSAI.*
- *The Ministry and FSSAI may frame more effective measures to persuade the State food safety authorities to fill up the large number of vacancies in the cadres of Designated Officers and Food Safety Officers.*

New Delhi
Dated: 04 August 2017


(MUKESH PRASAD SINGH)
Director General of Audit
Central Expenditure

Countersigned

New Delhi
Dated: 08 August 2017


(SHASHI KANT SHARMA)
Comptroller and Auditor General of India